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April 20, 2009

Ms. Carol Lumb, Senior Planner  
Department of Community Development  
City of Tukwila  
6300 Southcenter Boulevard, Suite 100  
Tukwila, WA 98188

via email: [clumb@ci.tukwilla.wa.us](mailto:clumb@ci.tukwilla.wa.us)

RE Shoreline Master Plan Update  
Costco Wholesale  
400 Costco Drive, Tukwila, Washington

Dear Ms. Lumb:

Costco Wholesale Corporation is providing supplemental comments in response to the City's draft Shoreline Master Program ("SMP") dated February 5, 2009.

Costco remains concerned that the City's draft SMP does not adequately address the operational needs of existing businesses through non-conforming use provisions that would allow reasonable expansion or modification of those businesses. Several provisions of the draft SMP, including the nonconforming structure and use provisions, landscaping provisions, and the 125-foot buffer requirement, impose regulation without a showing of individualized impacts that would necessitate such regulation, and are therefore contrary to constitutional nexus and "rough proportionality" requirements and RCW 82.02.020. *Citizens Alliance for Property Rights v. Sims*, 145 Wn. App. 649, 187 P.3d 786 (2008).

1. Buffers.

With respect to areas other than improved streets or roadways, the City has generally rejected Costco's buffer comments, opting instead for a uniform, 125-foot buffer, regardless of individual property characteristics and potential engineering design solutions. Costco continues to object to the City's proposed 125 foot buffer.

2. Landscaping.

The landscaping requirement<sup>1</sup> remains overbroad because it requires removal of invasive species in the River Buffer for any development or redevelopment in the Shoreline

<sup>1</sup> Draft SMP, p. 94.

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Jurisdiction, regardless of whether or not that development or redevelopment is affecting the River Buffer area. Again this type of regulation violates constitutional principles of nexus and "rough proportionality" and RCW 82.02.020.

3. Nonconforming Uses, Structures and Landscaping.

Costco remains concerned that the City has not adequately addressed the impacts of the draft SMP on existing lawful businesses and that SMP imposes conditions on these uses that preclude future modification or reasonable expansion by making the costs of such modifications or expansions prohibitively expensive:

The objectionable conditions the draft SMP include the following:

- No pre-existing use "may be enlarged, intensified, increased or extended to occupy a greater use of land, structure or combination of the two, than was occupied at the effect date of the SMP."<sup>2</sup>
- No pre-existing use may be moved or extended, in whole or in part, to another portion of the lot or parcel occupied by the use.<sup>3</sup>
- No structure may be enlarged in any way that increases its degree of nonconformity or increases its impacts on the function and value of the shoreline environment.<sup>4</sup>
- If the structure is moved for any reason or any distance, it must comply with the new SMP requirements.
- Within the shoreline jurisdiction, existing structures may be remodeled, reconstructed, or replaced so long as the new construction is within the original structure dimensions and lot location, the new construction does not further intrude into, or adversely impact, the require buffer, the new construction does not threaten public health/safety, and the structure otherwise meets the requirements of the SMP.
- Parking, loading, or storage facilities located between the river and any building must incorporate additional landscaping in accordance with the SMP's Vegetation Protection and Landscaping section.<sup>5</sup>
- The SMP includes Shoreline Design Guidelines that apply to the entire project if a portion of it is in the shoreline jurisdiction. These guidelines require orientation of buildings to maximize public views and access,

<sup>2</sup> Draft SMP, pp. 148-149.

<sup>3</sup> *Id.*

<sup>4</sup> Draft SMP, p. 149-150.

<sup>5</sup> Draft SMP, p. 89

creation of defined public spaces, and a linkage between the development and the river.

- The Director of Community Development or Board of Architectural Review may require alterations in the arrangement of buildings, parking, or other elements of the development to retain significant, non-invasive trees.<sup>6</sup>
- Pre-existing landscaping that is rendered nonconforming by the SMP would have to be upgraded to meet the draft SMP standards whenever the "property" was redeveloped. This condition is unreasonable because it would impose an obligation to reconstruct or expand existing landscaping in areas that may not be proposed for redevelopment.<sup>7</sup>
- The draft SMP could require dedication of an 18-foot trail easement, if development occurs in an area designated for trail access.<sup>8</sup> Public access may also be required from the landward side of the property.

Thank you for the opportunity to provide additional comments on the City's draft SMP.

Sincerely,



Kiersten Jensen  
Real Estate Manager  
Costco Wholesale Corporation

cc: Rick Jerabek, Costco Wholesale Corporation  
Gail Tsuboi, Costco Wholesale Corporation

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<sup>6</sup> Draft SMP, p. 92.

<sup>7</sup> Draft SMP, p. 151.

<sup>8</sup> Draft SMP, p. 130.